

"Be it therefore enacted by the General Assembly of Maryland, That if any subject or inhabitant of this State shall, within or without the same, and if any person whatever, being an inhabitant of any other of the United States, shall, within this State, levy war against the United States, or any of them, or shall adhere to any person bearing arms, or employed in the service of Great Britain, against the United States, or any of them, or shall afford such persons, or any of them, any aid or comfort, or shall give them or any of them, or any subject of Great Britain, any intelligence of the warlike preparations or designs of the United States, or any of them, and shall thereof be convicted in the general court of this State, or shall stand mute, or peremptorily challenge above the number of twenty of the pannel, shall be adjudged guilty of treason against this State, and shall suffer death without the benefit of clergy, and forfeit all the estate which he had at the time of the commission of the crime, to the use of this State; and the several crimes aforesaid shall receive the same construction (here defining the idea of those who legislated for the crisis of 1776) that have been given to such of said crimes as are enumerated in the statute of Edward the Third, commonly called the statute of treasons."

"Section 3. And be it enacted, That if any subject or inhabitant of this State, having knowledge of the actual commission of any of the crimes aforesaid, above declared to be treason, shall conceal the same, and shall not, as soon as conveniently may be, disclose and make the same known to the Governor, or some of the Judges or Justices of this State for the time being, such person, on conviction thereof in the general court, shall be adjudged guilty of misprision of treason, and shall forfeit all the estate which he had at the time of the commission of the crime, to the use of the State."

MR. MILLER. I am perfectly familiar with that act.

MR. SANDS. I know you are; but I wanted to call attention to the fact that here, in this hall, during the times that tried men's souls, our fathers legislated just as we propose our Legislature shall have power to legislate.

MR. MILLER. The law of 1777 was passed in the midst of the Revolution, when we were waging a war against a foreign enemy; when a foreign nation was undertaking to subjugate us and hold us to an allegiance which, by the Declaration of Independence, we had thrown off. It was against persons who still held to an allegiance to the Crown, and who were still living in the colonies, that those laws were passed, in that time of civil commotion.

MR. SANDS. Just as now.

MR. MILLER. But soon after the passage of those laws Maryland wiped them from her statute book, and so far as she could do so, re-

stored to the descendants of those whose property had been thus confiscated, all their rights under the law. But that case has no application whatever to our present condition. We are now engaged in a civil war, a fratricidal war of brother against brother; not defending ourselves against a foreign invasion or the attacks of a foreign enemy. And if we wish ever to attain a condition of peace and quietude in this country, that the memory of those bloody times shall pass away from the minds of men, let us in our legislation rather follow the dictates of civilized and Christian charity, than the precedents of revolutionary times such as have been cited. I might refer to many such acts which were passed during that period, but which have no application whatever to our condition now. The very men who participated in the passing of those laws, as soon as the conflict was over, went to the Convention of 1787 and assisted in framing this very Constitution of the United States, in which they declared that forfeiture should not extend beyond the life of the person attainted.

And we may gather some useful lessons from the history of the legislation of England upon this subject. At the common law the forfeiture was absolute and unconditional of all estate, in fee or in tail, held by the party who was attainted, or convicted of treason. But from early times the statutes of England began to modify the common law in that respect. Even when there was a pretender to the throne of England, after the Stuarts had been expelled, and were waging a war to recover their rights, a law was passed in the reign of Queen Anne by the British Parliament that declared that from and after the death of the then pretender, there should be no forfeiture for treason beyond the life or lives of the party or parties attainted. I have taken the pains to extract that law from an old statute book. It declares that—

"No attainder for treason should extend to the disinheritance of any heir, nor to the prejudice of the right or title of any person or persons, other than the right of the offender or offenders, during his, hers or their natural lives only."

By the passage of an act in the reign of George II., the operation of forfeiture beyond the life of the person attainted was continued until after the death of the sons of the pretender. But history shows that long since, as the last descendant of the Stuarts has gone to his long home, the more humane principles of law govern the statutes of England.

I had proposed, also, to show why it was that in the Constitution of the United States they were so careful to define what treason is, how it should be proved, and how it should be punished. My friend from Charles county, (Mr. Etelen), however, has gone over that ground pretty fully, and I will only say that those provisions were incorporated into the